

**HB 274 – Section by Section Summary
for Senate Business, Labor and Economic Affairs Hearing
March 13, 2012**

Note: Several sections will include deleting “professional guides” as a category of licensure. Professional guides was adopted by the 1995 Legislature as a new category. Three such licenses have been issued in 18 years, but requires Administrative Rules, forms, and monitoring. Rather than repeat this explanation throughout the bill, these are the sections so amended: 37-47-101, 37-47-201, 37-47-301, 37-47-303, 37-47-304, 37-47-307, 37-47-341, 37-47-343, 37-47-401, 37-47-402, 37-47-403, 37-47-404, and 37-47-702.

Section 1. “37-47-101. Definitions.

(2) Repeal definition of “Base of Operations” – no longer applicable as a result of I-161 (2010)

(4) Repeal definition of “Camp” – no longer applicable as a result of I-161 (2010)

(3) NEW. Add definition of “Business entity” – clarify the elements included in the term to include proprietorship, partnership, corporation, or limited liability company or any version thereof.

(6) Defines “designated agent.” – This definition was removed by amendment in the (H) hearing as it was added to the bill after the Dept. of Labor and Board of Outfitters administrators had vetted the bill.

(9) Redefines “Net Client Hunter Use - NCHU” to reflect changes in Administrative Rule regarding client logs, and defines lands where NCHU is required. [renumbered]

Section 2. “37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides.

(4)(a) Deletes ambiguous requirements for qualifications for outfitters – inserts specificity with regard to training, testing, experience, and knowledge of appropriate rules and laws.

(4)(c) Inserts “components” for review / approval of operations plans; deletes when approval is not required.

(4)(d) Deletes the requirement for outfitters to report leased acreage for the purpose of providing information to FWP or the Private Lands/Public Wildlife Council and the subcommittee within the Board of Outfitters that was charged with reviewing expansions of Net Client Hunter Use. While this section is no longer applicable as a result of I-161 (2010), the charge to report leased acreage forms the basis of the outfitter’s Operations Plan and L-1– without which a license will not be granted.

(6) Deletes requirement for board to “maintain records of clients served...” – This charge is picked up by Administrative Rule 24.171.2101, which is an important part of the application for renewal of licensure.

Section 3. “37-47-301. License required – services performed – standards

(2) “Submit records” was originally deleted, as agreed by the Board of Outfitters, but amended back into the bill at the suggestion of FWP enforcement and with concurrence of the industry.

(4) Deletes “environmental protection” as a standard for use of public lands in exchange for the requirement that outfitters comply with “all applicable rules and regulations” – more readily measurable.

(6) Includes "contractors" in requirement to provide advertised services.

Section 4. "37-47-302. Outfitter's qualifications.

(2) Inserts "business entity" and deletes "company, corporation, or partnership" – provides a broader coverage of potential business types.

(3) Deletes as a qualification the "demonstration" of compliance with laws and rules promulgated under Title 87 and the nebulous requirement to "conserve and preserve the ecosystem" – failure to comply is well covered in 37-47-404 [Unprofessional Conduct/Administrative Rules]. There are 3 sections and 43 subsections in Admin. Rule that constitutes violations and misconduct. This is very well covered.

Section 5. "37-47-303. Guide's ~~and professional guide's~~ qualifications.

(1)(c) Deletes the requirement to hold a valid wildlife conservation license – some renewals occur before new conservation licenses are issued; hinders the process to hire a guide in an emergency situation.

Also, conservation licenses are the prerogative of FWP (Title 87). Because a guide's license is reviewed by the Board of Outfitters only, it shouldn't be an issue. Interestingly, FWP staff, including field staff, are not required to hold conservation licenses. Most guides do, because they are sportsmen and hunters.

(2) Deletes special experience requirements for professional guides.

Section 6. "37-47-304. Application.

(2) Deletes the requirement for the outfitter's Operations Plan to form the basis for his / application and is replaced in substance by NEW (2)(c).

(2)(a) Deletes requirement for applicant to provide several personal details.

(2)(b)(c)(d) Deletes in entirety the requirement for specific information about an outfitter's business – falls outside scope of the Board of Outfitter's charge to protect the public – Board of Outfitters agrees.

(2)(d)(ii)(iii) and (e) Deletes ambiguous requirements for licensure regarding knowledge of weather and the need for a signed statement from the outfitter recommending licensure of a guide.

(2)(c) NEW Allows the Board of Outfitters to specify components of an operation plan by Admin. Rule.

(2)(g) Deletes requirement to state maximum number of participants – no longer applicable as a result of I-161 (2010).

(2)(h)(i) thru (vii) Deletes in their entirety several requirements regarding names and locations specific to the operations plan – falls outside the scope of the Board of Outfitter's charge – Board agrees.

NEW (ii) Brings back the requirement to report any land or water that an outfitter utilizes as part of his / operations plan. There is NO attempt to eliminate reporting where an outfitter operates. It's as much a protection among peers as a necessary tool for enforcement in the field, ensuring that outfitter, their clients, and their guides are where they belong while in the field.

(3) Substitutes "business entity" for corporations, proprietorships, or partnerships.

Section 7. "37-47-305. Outfitter's examination.

(2) through (8) and (13) Deletes in their entirety requirements for types of knowledge that have crept into the codes through the years that have little or no bearing on the Board of Outfitter's charge.

(10) Deletes first aid as part of the outfitter examination only. Receiving a first aid card is a result of the examination for the card. Outfitters and their guides must have current first aid as a prerequisite for licensure.

Section 8. "37-47-306. Fees.

(3) Deletes in its entirety – relates to fees and rules imposed on nonresident outfitter applicants – rarely implemented.

Section 9. "37-47-307. Investigation of applicant – issuance or denial of license.

(1) Deletes "professional guide." A review of all the forms outfitters deal with will show how much paper is dedicated to a category that is as rare as a bluebird in December.

Section 10. "37-47-310. Transfer or amendment of outfitter's license – transfer of river-use days to new owner of fishing outfitter.

(1) Substitutes "business entity" for corporations, proprietorships, or partnerships.

Section 11. "37-47-311. Limit one license.

(1) Substitutes "business entity" for corporations, proprietorships, or partnerships.

(2) Amends section to allow a licensee from owning or operating more than one business entity under one license.

Section 12. "37-47-341. Grounds for denial, suspension, or revocation of license.

(5) Provides as grounds one "felony" conviction or "multiple misdemeanor convictions" – clarifies and strengthens grounds for negative action.

Sections 13, 14, 15, 16 and 18.

Deletes "professional guide."

Section 17. "37-47-404. Responsibility for violation of law.

(2) Inserts "contractors" as one who must report violations of fish and game law – fishing outfitters employ independent contractors.

Section 19. Repealer.

37-47-103. Publication of license information. Too costly in light of the electronic availability of the same information.

37-47-316. Transfer of net client hunter use upon transfer of operations plan. Repeals requirement to transfer NCHU upon transfer of operations plans (in the sale of the business, for example). Such transfers required a Board audit and consume countless hours of administrative staff time – none of which reflects the Board’s core mission which is to protect the health, safety and welfare of the public. Further, NCHU expansions and Board review were repealed in the 2011 Legislative Session. Passage of I-161 (2010) eliminated the requirement to operate from an NCHU basis.

37-47-318. Fees in addition to annual license fee – allocation. Repeals the \$2 fee imposed upon the industry for each client served as a source of revenue to fund production of a map showing leased acreage. The map was recommended in a June 2000 audit as a means to facilitate public commentary on NCHU expansions. In the 2011 Legislative session, NCHU expansions were repealed, removing the requirement for public comment and therefore the map. While some see value in the map, it was inaccurate most of the time, causing confusion and misdirected anger. If the public views this service as important, perhaps the funding should come through the Department of Fish Wildlife and Parks.